

IN THE MATTER OF
JOSEPH F. ROSANA, O.D.
Respondent
License No. TA2006

*** BEFORE THE MARYLAND**
*** STATE BOARD OF EXAMINERS**
*** IN OPTOMETRY**
*** Case No. 2017-023**

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**FINAL ORDER TERMINATING SUMMARY SUSPENSION
OF LICENSE TO PRACTICE OPTOMETRY**

On or about June 27, 2017, the Maryland State Board of Examiners in Optometry (the “Board”) summarily suspended the license of Joseph F. Rosana (the “Respondent”) to practice optometry in the State of Maryland, license number TA2006. The Board has now considered and accepted the Respondent’s voluntary letter of surrender of his license. Accordingly, the Board hereby **TERMINATES AS MOOT** the summary suspension of the Respondent’s license to practice optometry.

FINDINGS OF FACT

At all relevant times, the Respondent was licensed to practice optometry in the State of Maryland under license number TA2006. Prior to surrendering his license, the Respondent’s license was scheduled to expire on or about June 30, 2019. The Respondent is also licensed to practice optometry in the Commonwealth of Virginia under license number 0618-001577.

On or about February 21, 2017, the Virginia Board of Optometry (the “Virginia Board”) summarily suspended the Respondent’s Virginia optometry license, finding that he “posed a substantial danger to [the] public health or safety.” In documents prepared and issued in support of its action, the Virginia Board alleged that the Respondent sexually assaulted six patients during the course of performing eye examinations on them at an office in Leesburg, Virginia. The Virginia Board also alleged that the Respondent’s misconduct occurred from in and around

March 2015 through in and around August 2016, and included but was not limited to his rubbing up against patients and touching them in a sexual manner. The Virginia Board also alleged that the Respondent's actions constituted a violation of: Virginia Code § 54.1-3215(3) (conducting his practice in such a manner as to endanger the health and welfare of his patients or the public); (16) (violating other standards of conduct as adopted by the Board); and the Regulations of the Virginia Board of Optometry, 18 VAC 105-20-40(11) and (14).

On or about June 7, 2017, the Respondent submitted an online application for licensure renewal (the "Renewal Application") to the Board. In the Renewal Application section entitled "Disciplinary Questions," the Respondent answered "NO" to the questions:

- Has any State licensing or disciplinary board . . . taken any action against your license, certification, or registration including, but not limited to reprimand, suspension, or revocation?
- Are there any outstanding complaints, investigations or charges pending against you in any State by any Licensing or Disciplinary Board []?
- Has any . . . employer denied your privileges or employment . . . or limited, restricted, suspended, revoked, or terminated your privileges or contract for any reason related to your practice?

The Respondent certified on the Renewal Application that he personally reviewed all of the responses made and that the information provided therein was true and correct. The Respondent failed to disclose on his Renewal Application that the Virginia Board had suspended his license and that there were pending investigations and/or charges pending against him before the Virginia Board.

On or about June 27, 2017, this Board summarily suspended the Respondent's license to practice optometry in the State of Maryland based upon the Board's finding that the health, safety, or welfare of Maryland citizens imperatively required emergency action. The Respondent received notice and an opportunity for a post-deprivation hearing pursuant to Md. Code Ann.,

State Gov't § 10-226(c)(2), but the Respondent did not request such a hearing. The summary suspension remains in effect.

On or about August 24, 2017, the Respondent was found guilty by a jury in the Circuit Court for Loudon County, Virginia, of misdemeanor sexual battery in violation of Virginia Code § 18.2-67.4. The conviction involved the Respondent's conduct towards three patients during eye examinations of those patients. The court imposed a fine of \$2,500 and an assessment of court costs totaling \$979.

Following his conviction, on or about October 3, 2017, the Virginia Board issued charges against the Respondent's Virginia optometry license, alleging that he sexually assaulted six patients during eye examinations. On or about November 3, 2017, the Respondent entered into a Consent Order with the Virginia Board to resolve the pending disciplinary charges. In the Consent Order, the Virginia Board found that the Respondent sexually assault six patients during eye examinations, and that the Respondent had been found guilty of misdemeanor sexual battery. The Virginia Board reinstated the Respondent's Virginia optometry license and placed him on probation indefinitely, but for at least one year.

On March 29, 2018, the Board charged the Respondent with violations of the Maryland Optometry Act, Md. Code Ann., Health Occ. §§ 11-101 – 11-602, specifically: § 11-313(1) (fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another), (3) (is convicted of or pleads guilty to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside), (7) (willfully makes or files a false report or record in the practice of optometry), (17) (behaves immorally in the practice of optometry), (20) (has had a license to practice optometry denied, suspended or revoked in another state for an act which would be grounds for disciplinary action under this section), (21) (has violated any provision of this title), (22) (violates any rule or

regulation adopted by the Board), (23) (commits an act of unprofessional conduct in the practice of optometry), and (27) (engages in conduct which exhibits an inappropriate standard of care).

The Board conducted a case resolution conference on May 15, 2018, during which the Respondent agreed to voluntarily surrender his license to practice optometry in Maryland. The Respondent then submitted a signed and notarized voluntary letter of surrender to the Board, in which the Respondent acknowledged that the Board's charges against his Maryland license "will be treated as proven." On May 30, 2018, pursuant to Md. Code Ann., Health Occ. § 11-312(a), the Board accepted the voluntary surrender of the Respondent's license to practice optometry in Maryland to resolve the Board's pending charges against his license.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann, Health Occ. § 11-313(1), (3), (7), (17), (20), (21), (22), (23), and (27), and that there would be a basis to impose discipline against the Respondent's license to practice optometry in the State of Maryland.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the Board accepts the voluntary surrender of the Respondent's license to practice optometry in the State of Maryland, license number TA2006, as of May 30, 2018; and it is further

ORDERED that the summary suspension of the Respondent's license to practice optometry in the State of Maryland, license number TA2006, as ordered in the Board's Order for Summary Suspension of License to Practice Optometry dated June 27, 2017, is hereby **TERMINATED AS MOOT** as a result of the voluntary surrender of the Respondent's license number TA2006; and it is further

ORDERED that this is a public document, pursuant to the Public Information Act, Md.

Code Ann., Gen. Prov. §§ 4-101 – 4-601 (2014), and Health Occ. § 1-607.

6/14/18
Date

Patricia G. Bennett
Patricia G. Bennet, Executive Director
Board of Examiners in Optometry